

## CIVIL REMEDIES FOR CRIME VICTIMS

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*"We frequently hear that through the criminal justice system, abusers can pay their debt to **society**. However, it is through the civil justice system that criminals fully repay their debt to the **victim**."*

*R. Keith Perkins  
Founder, Never Again Foundation*

### Victims' Financial Losses

- More than 24 million Americans are victimized by crime each year.
- Consequences of crime extend far beyond the criminal act.
- Lost income, medical expenses, physical rehabilitation, counseling, property damage
- It has been estimated that crime costs society \$450 billion annually.

### Civil Actions Can Help Where Restitution and Crime Victim Compensation Cannot

- Restitution and Compensation often do not cover a victim's full economic losses
- Hard to quantify damages/pain and suffering
- A civil lawsuit may provide more complete compensation to a victim.



**\$30 million**



**\$8.5 million compensatory damages  
\$25 million punitive damages**

### **Why File a Civil Lawsuit?**

- Control of the Case
- Compensation
- Justice and Accountability
- Crime Prevention

### **Comparing Civil & Criminal Justice**

- Criminal Justice System
- Civil Justice System
- Burden of Proof

### **In Criminal Cases . . .**

- GOAL: hold the defendant accountable to the State
- The State prosecutes and controls case
- Victim is a witness
- Burden of Proof: "beyond a reasonable doubt."

### **In Criminal Cases . . .**

- Perpetrator presumed innocent
- Guilt v. Innocence
- Punishment: jail, probation, restitution
- If found not guilty, no second prosecution (Double Jeopardy)

### **In Civil Cases . . .**

- Goal: hold defendant accountable to the VICTIM
- Victim initiates and controls case
- Victim is a PARTY
- Standard of Proof: Preponderance of the evidence (more likely than not)
- No presumption of innocence (parties viewed as equals)

### **In Civil Court**

- No guilt v. innocence/ LIABILITY
- Monetary damages (actual, punitive)
- Victim can sue in civil court regardless of whether the perpetrator has been found guilty in criminal case.

### **Parties in a Civil Suit**

- Plaintiff: The individual(s) who file the suit.
- May include: Victim, Survivors of the Victim, or Person Responsible for the Victim, Family Members

### **Parties in a Civil Suit**

- Defendants: The parties against whom the civil suit is brought
- May include: Perpetrators, those assisting the perpetrator, individuals or organizations whose negligence contributed to the commission of the tort (third parties).

### **Parties in a Civil Suit**

- Third Parties: Contributed or facilitated the tort
- Examples: landlords, colleges, shopping malls, parents, child care centers, tavern owners, churches

### **Statutes of Limitations**

- Vary from state to state
- Differ with different torts
- Child Victims
- Consult with attorney

### **Advantages of Civil Lawsuits**

- Victim has more control
- Financial
- Lower standard of proof
- No presumption of innocence

### **Disadvantages of Civil Lawsuit**

- No rape shield protection
- Defendant will not be put behind bars
- Longer process
- Victim must retain a lawyer

## Types of Civil Lawsuits

- Assault
- Battery
- Wrongful Death
- False Imprisonment
- Intentional Infliction of Emotional Distress
- Fraud
- Conversion
- Negligence

## Perpetrator Defenses

- Self-Defense
- Comparative Negligence
- Assumption of Risk
- Immunity

## Filing a Lawsuit (Civil Procedure)

- Complaint (Court fee, Service of Process)
- Answer (30 days or default)
- Reply
- Counterclaim

## Discovery

- Interrogatories
- Request for Production of Documents
- Depositions

## Alternative Dispute Resolution

- Arbitration
- Mediation

## Settlement

### Damages

- Compensatory (actual)
- Punitive (willful, wanton, reckless)

### Judgment & Enforcement

- Winning is only half the battle
- Judgment recorded in Clerk of Court's Office for 10 years
- Execution of Judgment

### Finding a Lawyer

- National Crime Victim Bar Association (1-800-FYI-CALL)
- S.C. Bar Lawyer Referral Service  
1-800-868-2284
- South Carolina Trial Lawyers Association  
(803) 799-5097

### Selecting a Lawyer

- Experience (Plaintiff's lawyer with experience in premises liability, personal injury, wrongful death, professional malpractice)
- Communication
- Retainer Agreement
- Contingency fee
- Client Cooperation

### Information The Lawyer Will Need

- About the criminal event:
- Date and time of criminal occurrence
- Location of events, addresses and description of premises
- How the perpetrator gained access to victim
- Identification of known physical evidence
- Police reports
- Was a criminal case brought?
- Third party liability

### Information The Lawyer Will Need

- Perpetrator Information
- Perpetrator's relationship to victim
- Physical description of the perpetrator

## Information The Lawyer Will Need

- Your Damages
- Medical
- Psychological
- Hospital and medical provider bills
- Medical Records
- Property Damage (photos, estimates, bills)
- Lost wages
- Source of funds to cover damages or losses (i.e., insurance, victims compensation, restitution).

## Fees & Retainers

- Hourly rate v. Contingency
- Get written retainer agreement
- Other costs: filing fees, process server, deposition fees, expert witnesses).

## Conclusion

- Civil suits offer crime victims another opportunity to secure what they seek most- justice.
- Regardless of whether there was successful criminal prosecution or any prosecution at all, victims can bring their claims to court and ask to have the responsible parties held accountable.
- While money awarded can never fully compensate victims for the trauma of their victimizations or the loss of a loved one, it can provide valuable resources for crime victims to help them rebuild their lives.

## “Civil Justice for Victims of Crime”

The National Crime Victim Bar Association